



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 5701-99

3 August 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The record shows that you were reduced in grade from OS1 (E-6) to OS2 (E-5) on 17 May 1993 as part of the sentence of a special court-martial. After that, you served in an excellent manner but were never again advanced to OS1.

The Board found that you reenlisted in the Navy for two years on 4 March 1997 in the rate of OS2. Subsequently, you received several counseling entries. On 10 February 1999 you received nonjudicial punishment (NJP) for two instances of unauthorized absence, disobedience, dereliction of duty, and making a false official statement. The punishment imposed included forfeitures of pay and a reduction in rate from OS2 to OS3 (E-4). You were honorably discharged on 3 March 1999 at the expiration of your enlistment and were assigned an RE-4 reenlistment code. At that time, you had completed 16 years, 9 months and 23 days of active service. Although it is not set forth in the record, it appears that you were denied reenlistment because of the recent NJP and because you had exceeded the high year tenure service limitations for an individual serving in pay grade E-4.

The Board was unable to obtain the NJP evidence. However, it

appears that your superior petty officers and the investigating officer believed that you had committed offenses. Therefore, the Board believed that there was a sufficient basis for the commanding officer to conclude that you were guilty of the offenses. Finally, it appears that your NJP appeal was denied by the general court-martial convening authority. The Board concluded, based on the available documentation, that the commanding officer did not abuse his discretion in this matter. The Board also believed the punishment imposed was not too severe given the counseling entries which document similar offenses to the ones for which you received NJP.

The Board further concluded that this NJP, which occurred less than a month prior to the expiration of your enlistment and the fact that you were at high year tenure for an OS3 were sufficient to support the assignment of the RE-4 reenlistment code.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director